

APPENDIX

JUL 18 1974

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IN THE
Supreme Court of the United States
OCTOBER TERM, 1973

No. 73-1513

UNITED STATES OF AMERICA,

Petitioner,

—v.—

RONALD B. JENKINS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR A WRIT OF CERTIORARI FILED APRIL 8, 1974
CERTIORARI GRANTED MAY 30, 1974

IN THE
Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1513

UNITED STATES OF AMERICA,

Petitioner,

—v.—

RONALD S. JENKINS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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* Copies of the decisions of the district court and court of appeals below were attached to the petition for a writ of certiorari.

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
12-21-71	Before WEINSTEIN, J.—Indictment filed.
1-13-72	BEFORE NEARER, J.—Case called. Deft and counsel present. deft. arraigned and enters a plea of not guilty. 45 days for all motions. Deft cont'd on O.R.
1-14-72	Magistrate's file 72 M65 inserted in criminal file.
5-23-72	Govts Notice of Readiness for Trial filed.
6- 2-72	Before TRAVIA, J.—Case called & adjourned to 6-16-72 for trial at 10 AM.
6-16-72	Before TRAVIA J—Case called & adjd to July 17, 1972 for Trial.
7- 8-72	Notice of motion concerning Voir Dire filed.
7- 8-72	Notice of motion for judgment of acquittal filed.
7- 8-72	Notice of motion for requests to charge the jury filed.
7- 8-72	Trial memorandum of law filed.
7 8-72	Certificate by J.L. Curtis of service of motions to US Atty Office filed.
7-14-72	Notice of motion filed concerning voir dire in opposition to defts & govt's trial memorandum filed.
7-17-72	Before TRAVIA, J.—Case called. Adjourned to 9-5-72 at 10 A.M. for trial.
9- 5-72	Before Travia J—Case called & adjd to 9-25-72 for Trial.
9-22-72	Notice of motion filed ret 9-25-72 for an order to substitute prosecutor.
9-25-72	Before Travia J—Case called—marked ready subject to case on trial 70 CR 576. Motion to substitute U.S. Attorney—Motion granted.
10- 3-72	Before TRAVIA, J.—Case called. Deft & counsel James Carroll present.—Trial ordered and be-

DATE

PROCEEDINGS

gun. Stipulation signed waiving jury trial.—
Deft reserves all rights to make motions at close
of govt's case.—Both sides rest. Decision re-
served. Deft to file brief by 10-11-72. Govt brief
by 10-13-72. Trial concluded.

- 10- 3-72 Waiver of Trial by Jury filed.
- 10-16-72 Deft's memorandum of law filed.
- 10-26-72 Findings of Fact and Conclusions of Law filed.
- 10-24-72 By Travia J.—Findings of Fact and Conclusions
of Law filed. 1) The Indictment in this case is
dismissed and the deft is discharged. 2) the con-
clusion of this court is not to be construed as
relieving this deft of his obligation under the
Uniform Military Training & Service Act. Local
Board No. 50 is directed to reopen this case to
consider the defts application for C.O. status in
accordance with the regulations.
- 11- 8-72 Copy of letter dated 11-6-72 from Judge Travia
& copy of memorandum of law filed.
- 11- 8-72 Letter dated 10-31-72 from James S. Carroll for
deletion of footnote 9 filed.
- 11- 8-72 By TRAVIA, J.—Order dated 11-3-72 filed that
footnote 9 be and the same is deleted from the
findings of fact and conclusions of law in this case
dated 10-24-72 (Order on bottom of letter from
James S. Carroll dated 10- * * *
- 11-21-72 Government's notice of appeal from order of 10-
24-72 filed. Duplicate of notice of appeal & dupli-
cate of docket entries to C of A. jn
- 12-21-72 Stenographer's transcript of 10/3/72 filed.
- 4-23-73 Index to Record on Appeal certified and mailed to
the C. of A.
- 4-26-73 Acknowledgment recd and filed from the C. of A.
for receipt of the Index Record.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Cr. No. 71 CR 1315
(50 USC App., § 462(a))

UNITED STATES OF AMERICA

— against —

RONALD S. JENKINS, DEFENDANT

INDICTMENT

THE GRAND JURY CHARGES:

On or about and between the 24th day of February 1971, and the date of filing of this indictment, within the Eastern District of New York, the defendant RONALD S. JENKINS, a person registered pursuant to the Universal Military Training and Service Act, as amended, the Proclamations of the President of the United States, and the Regulations issued and promulgated pursuant to said Act, knowingly failed and neglected to perform a duty required of him under and in the execution of said Act and Regulations, by knowingly refusing and failing to submit to induction into the armed forces of the United States, after notice had been given to the defendant by Local Board No. 50, exercising jurisdiction in that behalf, requiring the defendant to report for induction on the 24th day of February 1971. (Title 50 U.S.C. App., § 462(a).)

A TRUE BILL.

Foreman.

ROBERT A. MORSE
United States Attorney
Eastern District of New York

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

No. 71 CR 1315

UNITED STATES OF AMERICA, PLAINTIFF

— against —

RONALD JENKINS, DEFENDANT

MOTION FOR JUDGMENT OF ACQUITTAL

The defendant moves the Court for a Judgment of Acquittal for each and every one of the following reasons:

1. The denial of the defendant's claim as a conscientious objector was without basis in fact, arbitrary and contrary to law in that the Local Board did not provide a hearing to the defendant on his C.O. claim in violation of Selective Service Regulations.

2. The failure of the local board to postpone the induction order pending the determination of the defendant's claim as a conscientious objector was arbitrary and contrary to law and rendered the Order to report for induction invalid. *United States v. Geary*, 368 F.2d 144 (2nd Cir. 1966).

3. The defendant did not intentionally fail to submit to induction, but was in fact acting in accordance with his conscience and belief in awaiting a determination by the Local Board as to his C.O. claim.

Respectfully Submitted,

/s/ James S. Carroll
JAMES S. CARROLL
Attorney for Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

71-CR-1315

UNITED STATES OF AMERICA

— against —

RONALD S. JENKINS, DEFENDANT

United States Courthouse
Westbury, New York
October 3, 1972
11:00 o'clock A.M.

Before:

HONORABLE ANTHONY J. TRAVIA,
U. S. D. J.

GERALD I. METZ,
Acting Official Court Reporter

[2] Appearances:

ROBERT A. MORSE, ESQ.,
United States Attorney for the
Eastern District of New York

BY: PAUL WARBURGH, ESQ.,
Assistant U.S. Attorney

JAMES S. CARROLL, ESQ.,
Attorney for the Defendant.

* * *

[3] THE COURT: U.S. Against Jenkins. Both sides ready?

MR. WARBURGH: The Government is ready.

MR. CARROLL: Defendant is ready.

THE COURT: Both sides ready, all right.

MR. WARBURGH: Your Honor, it's my understanding that the defendant is going to waive a jury trial and he has signed a stipulation to that effect.